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Daily Environment Report

Afternoon Briefing - Your Preview of Today's News

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Tillerson Acknowledges Warming, Won't Abandon Paris Deal

Posted January 11, 2017, 02:38 P.M. ET

By [Eric Roston](#)

U.S. secretary of state nominee Rex Tillerson briefly laid out his position on climate change at his Jan. 11 Senate confirmation hearing in Washington. The former head of one of the biggest fossil fuel companies on Earth acknowledged that additional carbon dioxide is warming the planet, but left enough ambiguity to float an oil rig through.

His assessment of climate risk and the state of scientific confidence in man-made climate change depart from the most authoritative descriptions of the problem, such as recent reports by the United Nations' Intergovernmental Panel on Climate Change, or [IPCC](#), which states:

"It is extremely likely that human influence has been the dominant cause of the observed warming since the mid-20th century. The evidence for this has grown, thanks to more and better observations, an improved understanding of the climate system response, and improved climate models."

Tillerson, 64, appeared to slightly distance himself from President-elect Donald Trump's promise to tear up the 195-nation Paris Agreement on reducing global emissions.

"It's important that the U.S. maintains its seat at the table about how to address the threat of climate change, which does require a global response," Tillerson said. "No one country is going to solve this on its own."

It's not impossible for a Republican administration to stand by a statement like that even after ditching the Paris Agreement.

The former Exxon Mobil Corp. CEO declined to address the oil giant's past positions on climate change—both because he didn't know (despite having been at the company for four decades) and he didn't want to say, he told the senators. Whether Exxon Mobil will face legal or investor sanction

given investigations of what it knew and when it knew it remains to be seen.

His statements do reflect Exxon Mobil's evolution on the topic, starting from its early research back when Tillerson was starting out, to the late 1990s, when fossil fuel interests organized a mass-confusion campaign. In the 1970s and 1980s, the company's internal findings echoed the larger research community's conclusions at that time: That the world is warming and carbon dioxide emissions are likely to blame, according to independent investigations conducted in 2015 by Inside Climate News and the Los Angeles Times.

Tillerson took over Exxon's top job in 2006, and shortly thereafter pulled the plug on funding for the most high-pitched groups denying the risks of climate change. By 2009, the pressure to contribute to U.S. climate policy debates nudged Exxon Mobil into secret negotiations with the Sierra Club over how to design a national carbon tax—just as a market-based climate program called “cap and trade” was working its way through Congress. It died in the Senate in 2010, and the counter-intuitive partnership wasn't disclosed for several years.

Nuances in Tillerson's remarks Jan. 11 allow his position, without further elaboration, to mean a broad range of things, including a comment that computer models projecting possible paths of the climate have limited value.

“Risk of climate change does exist, consequences could be serious enough that action should be taken,” he said.

Tillerson is correct in acknowledging the dangers posed by climate change. Harvard University economists Gernot Wagner and Martin Weitzman have suggested that the risk of catastrophic climate change may be as high as 10 percent—orders of magnitude higher than, say, dying in plane crash.

“Consequences could be serious,” Tillerson said. How that sentiment manifests itself in U.S. foreign policy over the next four years? That's a central question.

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VW Pleads Guilty, Agrees to Pay \$4.3 Billion to Settle U.S. Case

Posted January 11, 2017, 02:11 P.M. ET

By Tom Schoenberg, Christoph Rauwald and David McLaughlin

Volkswagen AG took a major step toward resolving one of the darkest chapters in its history Jan. 11, pleading guilty to an emissions-cheating scandal and agreeing to pay \$4.3 billion in criminal and civil charges as the U.S. announced charges against five new individuals.

As part of its settlement, VW pleaded guilty to charges of conspiracy, obstruction of justice and using false statements to import cars to the U.S. VW executives Heinz-Jakob Neusser, Jens Hadler and Richard Dorenkamp were among those charged with conspiracy.

The court filings detail a scheme in which the German automaker deceived regulators and customers for years, and dozens of employees destroyed documents, even after the scandal broke in September 2015.

The emissions-cheating disclosures undermined the sterling reputation of German engineering and threatened the viability of a company that vies with Toyota Motor Corp. as the world's biggest carmaker. Volkswagen pressed to resolve investigations and lawsuits as quickly as possible, while working to repair its reputation with car buyers and dealers. It's now selling more cars and trucks than ever, offsetting declines in the U.S. with strong sales in China.

VW admitted in 2015 that about 11 million diesel cars worldwide were outfitted with so-called defeat devices, embedded algorithms used to game emissions tests. The settlement pushes the cost of the scandal to more than \$23 billion in the U.S. and Canada and will force the company to increase the money set aside to pay fines and compensate affected customers, which currently totals 18.2 billion euros (\$19.1 billion).

The government and Volkswagen have been trying to reach a settlement by Jan. 20 before Donald Trump is sworn into office, and many of the people who have been overseeing the case step down. Though the case ends the company's exposure to U.S. federal authorities, VW still faces probes from 42 state attorneys generals and a criminal probe and lawsuits in Germany.

Over the weekend, Oliver Schmidt, VW's liaison with U.S. environmental regulators, was arrested in Miami as he was returning to Germany from vacation. An engineer has already pleaded guilty, and prosecutors are preparing to charge more high-level German-based executives in the case, a person familiar with the matter has said.

The Volkswagen plea, filed in federal court in Detroit, serves as a capstone for Attorney General Loretta Lynch's enforcement of corporate misconduct and stands as one of the top environmental cases pursued under President Barack Obama. Investigated in just over 16 months, the Justice Department case also delivers on promises to hold individuals accountable.

In 2014, as U.S. suspicions increased about the real level of emissions from VW diesel cars, engineers and supervisors plotted ways to hide the defeat device, according to court documents. The next year, when regulators threatened not to certify 2016 models for sale in the U.S., Volkswagen's senior officials in Wolfsburg, Germany, were told at a July 27 meeting about the deception.

Senior VW managers approved a plan in August 2015 for what the automaker's employees would say in an upcoming meeting with California regulators, prosecutors allege. That plan called for Volkswagen employees to continue concealing the existence of the emissions device.

Hired Lawyers

Dozens of Volkswagen officials in Germany have hired U.S. criminal defense lawyers over the past several months as the Justice Department ramped up its investigation, Bloomberg reported last month. U.S. authorities have traveled to Germany to arrange interviews with managers and seek cooperation.

VW has suspended or pushed out about a dozen executives in the aftermath of the scandal including former Chief Executive Officer Martin Winterkorn, who has denied any knowledge of the cheating.

The U.S. can charge individuals in Germany, but getting executives to stand trial in the U.S. could be difficult because Germany's constitution bars extradition of German nationals to foreign countries other than European Union members.

VW has been making strides to wrap up other outstanding lawsuits in the U.S. On Jan. 6, the EPA and California regulators gave their first approval to a plan to fix some of the cars. A San Francisco judge has approved \$14.7 billion settlement that requires the company to fix or buy back about 480,000 of the cars in the U.S. with 2.0-liter engines cars. VW is awaiting approval on a \$1 billion deal concerning 3.0-liter engines.

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Trump's Energy Nominee Cuts Ties with Dakota Access Developer

Posted January 11, 2017, 03:52 P.M. ET

By Jennifer A. Dlouhy and Ari Natter

Former Texas Governor Rick Perry (R) is cutting ties with two companies that have stakes in the disputed Dakota Access Pipeline as he prepares to serve as President-elect Donald Trump's Energy secretary.

Perry has resigned from the boards of both the developer of that \$3.8 billion pipeline, Energy Transfer Partners LP, and the company trying to acquire it, Sunoco Logistics Partners LP, according to an agreement released Jan. 11 by the U.S. Office of Government Ethics. He also is shedding shares in the companies and pledged to steer clear of any matters that could affect them for at least two years.

The agreement, and a similar one with Interior Secretary pick Ryan Zinke, clear the way for the Senate to begin consideration of Trump's Cabinet choices on energy and interior next week.

Zinke, a Republican lawmaker from Montana tapped to lead the Interior Department, is set to appear before the Senate Energy and Natural Resources Committee on Tuesday, Jan. 17. And the next day Oklahoma Attorney General Scott Pruitt, Trump's pick to lead the Environmental Protection Agency, is slated for a hearing before the Senate Environment and Public Works Committee.

Perry's past link to the pipeline companies could still cast a shadow over his Senate confirmation hearing, which also may take place next week. Senators grilled former Exxon Mobil Corp. CEO Rex Tillerson, Trump's pick for Secretary of State, Jan. 11 about the decisions he made when leading the oil giant, from opposing Russian sanctions to paying royalties to unsavory regimes.

Keystone XL

The incoming president has promised to streamline pipeline permitting, approve TransCanada Corp.'s rejected Keystone XL and review the Obama administration's denial of a critical permit needed to complete the Dakota Access project amid protests from Native Americans and environmental activists.

The U.S. Army Corps of Engineers said a lengthy environmental review is needed before a federal easement can be granted for construction of the final portion of that pipeline beneath North Dakota's Lake Oahe. The project would provide a new outlet for crude oil extracted from the Bakken shale formation in North Dakota.

According to the Jan. 11 disclosures, Perry amassed significant energy company interests since his 14-year tenure as governor of Texas, including a role as an advisory board member of the firm his son co-founded, Grey Rock Energy Partners. Perry resigned that position effective Dec. 31, and

pledged to “not participate personally and substantially” in matters involving the company for a set period of time unless he receives special authorization.

Perry had held up to \$250,000 each in unvested restricted stock in Energy Transfer Partners and Sunoco Logistics Partners and collected director fees totaling \$171,000 from the companies.

Consulting Fees

Perry has earned nearly \$600,000 in consulting fees from work with MCNA Insurance Co., McKenna and Associates and Celltex Therapeutics, and pledged to sever ties with those companies. He has also gotten honoraria from a slew of organizations, ranging from the publication Bond Buyer to the American Association of Orthopaedic Surgeons. Since March, he also has collected \$51,527 in payments from the Texas Public Policy Foundation, a conservative think tank based in Austin, Texas.

Zinke served as a board member and consultant to Santa Barbara-based energy services firm Save the World Air from February 2013 until December 2014. The company, which changed its name to QS Energy in 2015, develops technology designed to increase the efficiency of oil pipelines, according to its website.

Montana Microbrewery

Assets listed by Zinke include a family trust valued at more than \$1 million, royalties from a Whitefish Montana microbrewery, Double Tap LLC, for which he serves as a managing member, and an art collection valued between \$100,001 and \$250,000, according to the disclosure report.

Pruitt’s financial portfolio, obtained earlier by Bloomberg but posted by the ethics office over the weekend, is one of the least complicated of Trump’s cabinet nominees, primarily made up of mutual fund holdings. Pruitt disclosed his previous role as chairman of the Rule of Law Defense Fund, a group linked to Republican attorneys general that promotes federalism; Pruitt has stepped down from the organization.

Environmental activists have raised concerns with these three picks along with that of Tillerson, arguing that the selections show fossil fuel advocates will have undue access and influence with the incoming administration. Sierra Club Executive Director Michael Brune has called Trump’s cabinet-in-waiting a “nightmare for the planet.”

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Tillerson Backs U.S. Keeping ‘Seat at the Table’ for Paris Climate Pact

Posted January 11, 2017, 11:12 A.M. ET

By Dean Scott

President-elect Donald Trump’s pick for top U.S. diplomat, Rex Tillerson, today endorsed keeping the U.S. “at the table” in global climate talks, reaffirming a position that continues to put him at odds with Trump’s vow to back out of the Paris climate pact.

“I think it’s important that the United States maintain its seat at the table on conversation around how to address the threat of climate change,” the former Exxon Mobil Corp. CEO told members of

the Senate Foreign Relations Committee. Tillerson, tapped to be Trump's secretary of state, said the global nature of the climate threat will "require a global response."

"No one country is going to solve this alone," Tillerson told the committee, which opened its confirmation hearing on the nominee today. It was the sole mention thus far at the hearing of the climate issue; Tillerson was asked whether he intends to maintain "climate leadership" by the committee's top Democrat, Sen. Ben Cardin (Md.).

Trump vowed during the campaign to "cancel" the 2015 Paris climate pact, under which nearly 200 nations agreed for the first time to take action to address climate change including rising global temperatures.

Tillerson's Exxon-Ethics Plan Has \$72 Million Tax Advantage

Posted January 11, 2017, 11:19 A.M. ET

By [Lynnley Browning](#)

The exit package Exxon Mobil Corp. has agreed to pay Rex Tillerson if he's confirmed as secretary of state is structured to preserve roughly \$180 million in deferred compensation for him—and might let him avoid an immediate federal income tax bill of as much as \$72 million, according to tax specialists who have reviewed the plan.

The arrangement was designed to sever Tillerson's ties to the global oil company he led since 2006 and allow him to comply with federal ethics law. Under the plan, Exxon would make a cash payment into an independent trust managed by Northern Trust Corp. for Tillerson. In exchange, Tillerson, 64, would give up his rights to more than 2 million restricted shares and restricted stock units that haven't vested yet.

Ordinarily, cash payments made in lieu of unvested stock awards would trigger an immediate income-tax liability for the recipient. But in Tillerson's case, the trustee will disburse funds to him on a schedule that mirrors the company's long-horizon vesting schedule.

That means that even though the trust would hold all the cash from the awards, Tillerson wouldn't receive some of the money for as long as 10 years and would pay ordinary tax as payments trickle in instead of all at once. Exxon can take a corporate income-tax deduction for the payouts, but will do so only when they're made.

'Special Arrangement'

"It's unusual in that he's getting a special arrangement that will allow him to continue the value of his deferred compensation through the trust while deferring taxes," said Michael Kosnitzky, a tax partner in charge of law firm Boies, Schiller & Flexner's Tax and Middle Markets Practice Group. Kosnitzky, one of six experts contacted for this story, reviewed the publicly available documents in Tillerson's case.

Tax experts said there's nothing illegal or unethical about the novel arrangement. Still, the Internal Revenue Service might question the way it effectively converts deferred compensation, which is taxed under tighter rules, into property, which is subject to more lenient deferral rules, Kosnitzky said. "That would be my concern," he said.

Exxon spokesman Alan Jeffers confirmed that the payout structure won't present Tillerson with an

immediate income-tax bill. “We’re confident that the trust arrangement complies with all applicable law governing deferred taxation,” said Reginald Brown, a lawyer at WilmerHale who represents Tillerson.

Tax Overhaul

Deferring income tax on the payout may benefit Tillerson over time; the current top individual income tax rate is 39.6 percent; President-elect Donald Trump and House Republicans want to cut it to 33 percent as part of a broad tax overhaul for individuals and businesses.

Tillerson began his confirmation hearings on Jan. 11. His deferred compensation consists of two forms, disclosures show: First, he has 1.1 million so-called restricted shares, which are company shares awarded to employees that vest over time. He has been awarded 900,000 restricted stock units, which aren’t actual shares, but serve as their economic equivalents. They too vest only over time.

Exxon is known for its stringent compensation policy, which allows for accelerating the vesting of deferred shares only in case of an executive’s death. In Tillerson’s case, “they are making an exception,” said Alan Johnson, an executive-compensation consultant in New York.

The payout plan, which has been approved by the federal Office of Government Ethics, calls for making the payout to a trust in order to separate Tillerson’s finances from Exxon’s. But because Tillerson wouldn’t have access to the money immediately, the arrangement also serves to help him avoid immediate taxation, according to tax lawyers.

Capital Gains

Federal law tries to help executive-branch appointees avoid paying large tax bills when they take pains to avoid conflicts of interest. For example, they can defer any capital-gains taxes they might owe when they sell assets to avoid such conflicts—provided that they reinvest in an approved list of new assets, such as Treasuries or mutual funds.

Tillerson will be eligible to defer gains on the sale of more than 600,000 shares of Exxon common stock that he owns outright—if he reinvests appropriately. The plan that he and Exxon have agreed to would allow a similar tax-free diversification for his 2 million or so restricted shares and restricted stock units that have yet to vest.

Executives can choose to delay taking possession of deferred compensation when it vests—and thus defer paying income taxes on it -- but usually only if the company’s obligation to the executive is “unfunded,” meaning the company’s promise to pay is subject to claims by creditors. But because the company would make the payment to Tillerson’s trust, Exxon’s obligation would be funded, the trust documents show.

Another requirement for deferral holds that the future payments to the employee must be at “substantial risk of forfeiture”—meaning there are strings attached to the payout. For example, stock awards might be canceled if the executive goes to work for a competitor.

In Tillerson’s case, tax experts question whether the new plan still contains a real risk of forfeiture. Tillerson would forfeit trust payouts if he goes to work for a competitor in the next decade—the trust would donate any forfeited amounts to charity. But trust documents show that, in deciding whether to pay Tillerson, the trustee could simply rely on Tillerson’s word to show that he hadn’t violated the non-compete restriction.

That arrangement might call into question whether there's a true risk of forfeiture, tax lawyers say. Federal regulations already say that simply working for a competitor doesn't automatically constitute a substantial risk of forfeiture, Kosnitzky said.

IRS rules on the subject are "a little loosey-goosey," he said.

—With assistance from Alicia Ritcey.

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Obama Plan to Shake Up Coal Leases Could Restrict Trump

Posted January 11, 2017, 03:26 P.M. ET

By Jennifer A. Dlouhy

The outgoing Obama administration issued a blueprint for overhauling the way coal on federal land is sold, making it tougher for President-elect Donald Trump to resume sales under decades-old procedures.

The report released Jan. 11 lays out a menu of potential options for policymakers to consider, including tacking a carbon fee onto coal leases to account for climate change, requiring payments into a fund that could help out-of-work miners and devastated communities—and even halting sales altogether.

This initial report is part of a reevaluation of the coal program announced by Interior Secretary Sally Jewell a year ago. It doesn't prevent Trump from making good on his vow to overturn the Interior Department's moratorium on new coal sales after being sworn in Jan. 20. Trump can even disregard this report's recommendations and stop the environmental review that was slated to take three years.

But the document bulks up a record of evidence that changes are needed—information that would make it harder for future coal lease sales to withstand legal challenge.

Exhibit A

"If the Trump administration decides to just do business as usual, I think this will probably be Exhibit A in a future challenge," said David Hayes, a former deputy secretary of the Interior who is a visiting lecturer at Stanford Law School.

About 40 percent of U.S. coal now comes from federal land, much of it from the Powder River Basin in Wyoming and Montana. Demand for the fossil fuel and new federal coal leases has fallen as environmental regulations and competition from cheap natural gas encourage utilities to abandon coal-fired power. But because coal-fired power is the most potent source of carbon dioxide emissions, environmentalists argue government sales of the fossil fuel should account for the damage from those greenhouse gases.

Environmentalists already used litigation to press for a coal leasing overhaul, including a 2014 lawsuit by Friends of the Earth and the Western Organization of Resource Councils. The groups appealed after a federal court dismissed their lawsuit in 2015, and that litigation was still ongoing

when Jewell imposed the leasing halt.

Lawsuit Possible

It could be revived—or a fresh suit filed—if Trump's Interior Department abandons the environmental analysis wholesale and institutes new lease sales under the industry-friendly rules that date to the 1980s. Any future coal lease sale also could be challenged in court, with opponents arguing the transaction took place without environmental scrutiny the Interior Department concluded was necessary after holding five hearings and considering nearly 100,000 public comments.

"This will only strengthen the hand of those who are going to be pursuing reforms to the coal program through the courts," said Matt Lee-Ashley, a senior fellow with the Center for American Progress. "It's absolutely certain that whoever is challenging it will point directly back to this."

There's precedent for such a challenge. Legal uncertainty clouded scores of Arctic drilling leases for years after a federal court ruled there were lapses in the environmental analysis that preceded a 2008 government auction of those tracts.

Jewell cast the leasing review as essential to updating the way the U.S. government manages energy development on public lands. "The need to modernize the federal coal program is unequivocal," Jewell said in an e-mailed statement. "The only responsible next step is to undertake further review and implement some of these commonsense measures."

Jewell said she could envision new coal lease sales if concerns highlighted by the report are addressed, during a discussion organized by Columbia University's Center on Global Energy Policy. But, she added, "it doesn't make sense to do it on rules that are 30 to 40 years old, where we have been roundly criticized for not having a competitive process or a transparent process or one that gives a fair return for the American taxpayer."

Over 190 pages, the report offers a menu of possible changes meant to make sure government coal leasing is more efficient, better protects the air and water, accounts for greenhouse gas emissions and ensures a fair return to U.S. taxpayers that own the resource. Each of the main three options includes a hike in the royalty rate. Several possible scenarios are outlined for further review, ranging from no change to adding a carbon fee to ending leasing entirely. One option included setting limits on the amount of coal that could sold during specific time periods, potentially limiting development and encouraging competition.

Last Sale

The National Mining Association blasted the assessment, saying it shows the Obama administration had joined hands with environmental activists who preach a "keep it in the ground" mantra against fossil fuel extraction.

The "purported rationales to overhaul the federal coal lease program rest on politically contrived reasoning that will result in less federal and state revenue, the loss of more high-wage jobs as well as an indispensable source of affordable electricity for millions of families," said the group's president, Hal Quinn.

Steve Daines, a Republican senator from Montana, said the proposed changes "would jeopardize good-paying jobs and tax revenue that supports our schools, roads and essential services for our rural communities."

The government last sold a coal lease in October 2012 to BTU Western Resources. Antelope Coal asked to buy new territory in 2015, the first request for a sale in four years. The Bureau of Land Management currently administers 306 coal leases encompassing over 475,000 acres in 10 states, with an estimated 7.4 billion tons of recoverable coal.

Advocates of a leasing overhaul hope to appeal to Trump's promise to help out-of-work coal miners by arguing that reforms could steer aid their way. Half of the U.S. government revenue from federal coal leases already goes to the states; increases in royalties could allow more money to go to hard-hit mining towns.

"If the Trump administration reaction is to put this analysis in the wastebasket, in a very real sense, they would be denying the reality of the need to address the economics of the industry, including how best to help the communities that are suffering because of the changing economics of the industry," Hayes said.

--With assistance from Alex Nussbaum and Tim Loh.

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Second EPA Solvent-Restriction Rule Moves Toward Finalization

Posted January 11, 2017, 01:12 P.M. ET

By [Pat Rizzuto](#)

A proposed rule to restrict vapor degreasing uses of the solvent called trichloroethylene was approved on Jan. 10 by the White House regulatory review office, setting the stage for debates over the science that underpins it.

The compound, called TCE, is used to clean machine parts across a wide swath of industries including cleaning aircraft parts, defense-related maintenance of vehicles, and metal fabrication processes.

The Office of Management and Budget's approval means the Environmental Protection Agency will likely issue the proposed rule (RIN:2070-AK11) before President Barack Obama leaves office.

According to the proposed regulation, new controls would affect manufacturers of soap, detergent, saw blades, handtools, jewelry and silverware.

Sufficient concentrations of exposure to TCE affects the central nervous system, and has been associated with toxic effects in the liver and kidney.

When released by the EPA, this vapor-degreasing restriction would be the second rule limiting TCE uses to be proposed by the agency.

The EPA published on Dec. 7 the first proposed rule (RIN:2070-AK03). That first rule would ban the use of trichloroethylene (TCE; CAS No. 79 - 01 - 6) for spot cleaning by dry cleaners and in aerosol degreasers, such as sprays designed to remove grease from electrical motors or metal.

Both rules mark the EPA's first attempt since 1991 to use the chemical-restriction authorities it has under Section 6 of the Toxic Substances Control Act. In 1991 the U.S. Court of Appeals for the Fifth

Circuit overturned the agency's 1989 effort to ban most uses of asbestos (*Corrosion Proof Fittings v. EPA*, 947 F.2d 1201, 33 ERC 1961 (5th Cir. 1991)).

Chemical manufacturers and their representatives, such as the American Chemistry Council, have blasted the risk assessment that underlies both TCE rules as failing to meet the scientific requirements of TSCA as amended in 2016.

Others, including Sen. Tom Udall (D-N.M.), who spearheaded passage of the amendments that updated TSCA, have praised the agency for striving to protect the public from a hazardous chemical in common use.

Debate over the sufficiency and specificity of the science that EPA uses to justify TCE controls is being closely watched by industry and environmentalists for what it portends for future chemical regulations.

Moniz: Yucca Mountain Nuclear Waste Process 'Hasn't Worked'

Posted January 11, 2017, 02:45 P.M. ET

By [Rebecca Kern](#)

The process for siting nuclear waste at Yucca Mountain in Nevada "hasn't worked," Energy Secretary Ernest Moniz said today.

"We believe a consent-based approach is the only way we're going to get across the finish line," Moniz said at a National Press Club event in Washington. He said the way Yucca Mountain was designated as a permanent repository for nuclear waste disposal, stipulated in the Nuclear Waste Policy Act in 1987, "was not a consent-based approach."

"You have to have the local, state and federal people lined up," he said, referring to current state opposition. More than 300 contentions had been filed in courts against Yucca Mountain as a disposal site before the Obama administration stopped work on the application in 2010.

There is interest in the Republican-controlled Congress to resume work on Yucca Mountain this year.

Separately, the Energy Department has embarked upon a consent-based approach to the consolidated interim storage and permanent disposal of nuclear waste that would be based on collaboration with local, state and tribal governments. This approach could result in multiple sites for storage and disposal of both defense and commercial nuclear waste, Moniz said.

"Now we are going back and seeking information from any community, any state that wants to provide interest in beginning to look at the possibility of hosting any one of those forms of waste storage or disposal," he said.

Pivotal Endangered Species Pesticide Case Moves in Appeals Court

Posted January 11, 2017, 02:16 P.M. ET

By [Tiffany Stecker](#)

A federal appeals court is moving forward on a potentially precedent-setting case on how agencies consult on pesticides that may endanger rare species.

The U.S. Court of Appeals for the District of Columbia Circuit will hold oral arguments March 6 on whether the Environmental Protection Agency violated the Endangered Species Act in approving cyantraniliprole, an insecticide registered for use in 2014 (Center for Bio. Diversity v. EPA, D.C., No. 14-1036, 1/11/17). The insecticide is used in the citrus and blueberry industries, where farmers are battling insects that spread citrus greening disease and invasive fruit flies, respectively.

Environmental groups, represented by the nonprofit law firm Earthjustice, argue that the EPA did not consult with the National Marine Fisheries Service on whether the approval of cyantraniliprole would harm species listed under the Endangered Species Act. The EPA is currently developing a framework for such consultations.

‘The Clocks Don’t Align’

The upcoming argument will likely center on a jurisdictional question: what is the proper legal venue—district courts or appellate courts—for such pesticide challenges?

According to the Endangered Species Act, challenges from citizen groups must begin in federal district courts. Under the Federal Insecticide, Fungicide and Rodenticide Act, the law governing pesticide registrations, those cases must begin in federal appeals court. So Earthjustice filed nearly identical challenges in both the U.S. District Court for the District of Columbia and the U.S. Court of Appeals for the D.C. Circuit.

Both laws contradict themselves on timing, Jason Rylander, senior staff attorney for Defenders of Wildlife, told Bloomberg BNA. Under FIFRA, challengers must file in circuit court within 60 days of a pesticide registration decision. Under the Endangered Species Act, challengers must give notice of violation in district court and then wait 60 days.

“Obviously, the clocks don’t align,” Rylander said.

D.C. District Court Judge Gladys Kessler dismissed the environmentalists’ 2015 challenge last year on the grounds that cases under FIFRA should be filed in appeals court, not district court (Ctr. for Biological Diversity v. EPA, D.D.C., 1:14-cv-00942, 6/11/15). Earthjustice appealed that decision, and the court has consolidated the two challenges on cyantraniliprole.

Once oral arguments are complete, the court of appeals will either send the case back to the district court to weigh on the merits, or decide that the appeals court is the proper venue. In the latter case, the circuit court may also decide whether the agency violated the Endangered Species Act.

The appeals court decision will have implications for the growing number of pesticide complaints under the Endangered Species Act. The EPA must consult with other agencies on pesticide decisions when rare species could be impacted.

At least four other cases are on hold pending the outcome of the cyantraniliprole challenge.

Some Nanoscale Chemical Makers, Users Must Give EPA Data

Posted January 11, 2017, 12:30 P.M. ET

By Pat Rizzuto

Companies that make, process or import certain nanoscale chemicals are required to submit information to the Environmental Protection Agency under a final rule the agency released Jan. 11.

The rule (RIN 2070-AJ54), more than 10 years in development, marks the first time the agency has required manufacturers and processors to submit chemical identity, production volume and other information about nanoscale chemicals. Under the Toxic Substances Control Act, which provides the legal authority for this rule, importing a chemical is considered the same as manufacturing it.

The regulation applies only to chemicals specifically made at the nanoscale to have strength, electrical conducting, light transmitting or other special properties they would not exhibit if they were larger. The EPA defined reportable chemicals as substances containing particles in the range of 1 to 100 nanometers. A nanometer is about the size of a virus.

Chemical manufacturers including BASF SE, CHASM Advanced Materials, Inc., and Dupont are among the companies that make nanoengineered chemicals. Such chemicals are incorporated into diverse industrial and consumer products ranging from tennis rackets to lithium ion batteries to airplane parts.

The rule will be effective in May, 120 days after it is published in the Jan. 12 Federal Register.

Two Reporting Requirements

The rule has two reporting requirements.

The first is a one-time requirement to report information known to or reasonably attainable by a company that has made or processed a nanoscale chemical “at any time during the three years prior to the final effective date of this rule.”

The second is an ongoing reporting requirement for companies that, in the future, decide to make, import or process a distinct, or “discrete,” form of a nanoscale chemical.

Companies that decide in the future to make, process or import a distinct form of a nanoscale chemical will have to provide the EPA the required information under one of two deadlines.

They must submit the information to the EPA either 135 days before they make, import or process the chemical or within 30 days of deciding they intend to manufacture or process the chemical.

Companies that want to make or process a nanoscale form of a chemical already in commerce are free to do so before the 135-day deadline, although the information must be submitted, the final rule said. The 135-day period “is not a formal review-period that prohibits manufacture,” the agency said.

If a company intends to make a new, nanoscale chemical—meaning a chemical that is not on the TSCA inventory of chemicals that have been made in or imported into the U.S.—it must comply with existing TSCA rules that require it to submit a premanufacture notice 90 days before making the chemical.

Some attorneys that represent nanoscale chemical manufacturers and processors told Bloomberg BNA before the final rule was published that companies might challenge the final rule in court if it contained the 135-day reporting requirement the agency originally proposed.

The final rule's requirements, however, are somewhat different. For example, the final rule allows manufacture or processing of the nanoscale chemical to commence before 135 days.

Final Rule Changes Exemptions

Companies that make or process biological materials such as enzymes and microorganisms, which are at the nanoscale, are exempted from the final rules reporting requirements. That exemption was not in the proposed rule.

The agency, however, eliminated a proposed exemption for nanoclays and zinc oxide following concerns some public commenters raised. The EPA said the comments made it realize that it did not have sufficient information to exempt these or other chemicals that may be intentionally engineered at the nanoscale.

The EPA's final rule exempts more small businesses from its reporting requirements than did the proposed rule.

The agency had proposed to define small businesses as ones with annual sales less than \$4 million, but several commenters urged the agency to expand the exemption.

The final rule exempts companies with annual sales of \$11 million or less.

The final rule also defines many terms that public commenters had criticized as being vague in the proposed rule.

The rule offers examples of testing methods that could generate some of the information the agency would like to receive. The EPA stressed, however, that manufacturers and processors are not required to conduct testing or develop new information under this rule, but rather report information they already have or can readily obtain.

Seventh Generation to Lobby for Chemical Ingredient Disclosure

Posted January 11, 2017, 11:14 A.M. ET

By [Pat Rizzuto](#)

Seventh Generation, Inc. plans to lobby state legislators and the U.S. Congress in favor of legislation that would require companies to disclose chemicals in the products they make, the company's director of sustainability said Jan. 10.

Martin Wolf, director of sustainability and authenticity for Seventh Generation, said the company plans to lobby for chemical disclosure legislation in California, Vermont and nationally. Seventh Generation, which makes laundry detergents, diapers, baby wipes and other household products marketed for consumers interested in sustainability, already discloses its ingredients through information on the label and online. Unilever purchased Seventh Generation in 2016.

"Customers don't always like what [chemical] we use, but it starts a conversation. We can talk about why we use it. We may not win the consumer, but we build trust," said Wolf during a webinar called "Chemical Transparency: The Value of Ingredient Disclosure." Clean Production Action, a non-profit organization that advocates for green chemicals and sustainable products, organized the webinar.

Ingredients Expected to Be Disclosed

Roger McFadden, a former vice president at Staples, Inc., said it's inevitable that chemicals in products will be disclosed.

"Get used to it. We live in an age of information, transparency and disclosure," he said during the webinar.

"Consumers will dig, discover and divulge any and all information across the web," said McFadden, who now runs his own Portland, Oregon-based consulting company firm called McFadden and Associates, LLC.

Companies can choose to get ahead of the curve and disclose those ingredients voluntarily, wait for regulations, or wait until the information is obtained through internet hacking or other means, McFadden said.

Companies can benefit from chemical disclosure legislation and regulations, he said.

Leveling the Playing Field

Laws and regulations can provide clear definitions of terms like "chemical" and "chemical disclosure," he said.

Clear definitions create a level playing field on which businesses are evaluated consistently. They also ease supply chain communications, McFadden said.

Brand vulnerabilities that result when chemicals of concern are found in consumer products are reduced through disclosure, he said.

State Interest

State interest in chemical disclosure legislation is expected to continue in 2017, according to Sarah Doll, director of a chemical-policy group called Safer States.

Legislators in New York, California and elsewhere are expected to reintroduce disclosure bills that failed to pass in 2016, she previously told Bloomberg BNA.

Vermont adopted legislation in 2014 that required disclosure from companies making children's products. The law applied to products containing any of 66 chemicals of high concern. Seventh Generation would like that disclosure to be expanded to additional products, Wolf said.

Bryan McGannon, policy director of the American Sustainable Business Council, has told Bloomberg BNA that his organization will work with congressional legislators to secure the reintroduction of the Cleaning Product Right to Know Act in 2017. Introduced in 2016 by Rep. Steve Israel (D-N.Y.), who has since retired, the bill would have required cleaning products to disclose their ingredients, including components of dyes, fragrances, and preservatives making up 1 percent or more of the product.

Industry Efforts

Wolf said Seventh Generation also will work with the American Sustainable Business Coalition, BizNGO, a coalition of businesses and environmental organizations, and other groups to expand industry disclosure initiatives.

He pointed to a voluntary disclosure initiative launched by the American Cleaning Institute, the Consumer Specialty Products Association and the Canadian Consumer Specialty Products Association. The initiative is a good step but should be expanded, Wolf said.

House Republicans Add Six New Members to Ag Committee

Posted January 11, 2017, 02:11 P.M. ET

By Casey Wooten

House Republican leadership added six first- and second-term members to the chamber's Agriculture Committee, panel Chairman Mike Conaway (R-Texas) said.

Announced Jan. 11, Reps. Jodey Arrington (Texas), Don Bacon (Neb.), James Comer (Ky.), Neal Dunn (Fla.), John Faso (N.Y.) and Roger Marshall (Kan.) will round out the 26 Republicans on the committee.

"Their diverse backgrounds will be integral as the committee goes to work—from protecting the farm safety net for producers, to ensuring the Supplemental Nutrition Assistance Program (SNAP) works to help lift families out of poverty, to rolling back burdensome regulations that strangle businesses," Conaway said in a statement.

Marshall defeated Rep. Tim Huelskamp in Kansas's Republican primary, in part by running on a platform that he would bring back a Kansas lawmaker to the Agriculture Committee. Huelskamp had served on the panel but was ousted by then-Speaker John Boehner (R-Ohio) in 2012.

Rep. Randy Neugebauer (Texas), one of the most senior Republicans on the panel, retired, along with Reps. Chris Gibson (R-N.Y.) and Dan Benishek (R-Mich.).

Rep. Jackie Walorski (R-Ind.) moved to the Ways and Means Committee. Reps. John Moolenaar (R-Mich.) and Dan Newhouse (R-Wash.) moved to Appropriations.

Democratic Moves.

House Minority Leader Nancy Pelosi (D-Calif.) announced Agriculture Committee assignments on Jan. 10, naming five new Democrats to the panel: Reps. Dwight Evans (Pa.), Al Lawson (Fla.), Tom O'Halleran (Ariz.), Jimmy Panetta (Calif.) and Darren Soto (Fla.).

They will replace Democrats who are no longer in office or have moved to different committees.

Rep. Brad Ashford (Neb.) lost his House seat to Bacon, one of the new Republicans on the committee. Rep. Ann Kirkpatrick (Ariz.) gave up her House seat to run an unsuccessful bid to oust John McCain (R) from his Arizona Senate seat. Rep. Suzan DelBene (Wash.) moved to Ways and Means.

Panetta, the son of former CIA Director Leon Panetta, took over the House seat of Rep. Sam Farr (D), who retired.

Poland to Spend \$2.5 Billion to Clean Up Its Dirty Air Image

Posted January 11, 2017, 03:16 P.M. ET

By [Bogdan Turek](#)

Poland, which has among the dirtiest air in Europe, will spend \$2.5 billion through 2020 to improve air quality, the government announced Jan. 10.

Much of the money will go to insulate houses and renovate old heating pipes—low-tech efforts to conserve energy and limit the burning of coal for household heating, which is still very common in Poland.

The money will come from both the European Union and the Polish government, said Kazimierz Kujda, head of the National Fund for Environmental Protection and Water Management (NFOSiGW).

Low-Quality Coal

Low-quality coal used for household heating generates particulate matter pollution across Poland. Most Poles live in homes whose heating systems are obsolete, according to the Buildings Performance Institute Europe.

The announcement came a few days after an air pollution alert prompted local governments to cancel school in several Polish cities. Free bus and metro rides were offered in Warsaw to cut traffic in the capital, one of the most congested cities in Europe, with 700 cars per 1,000 inhabitants.

Some of the money announced Jan. 10 will go to developing geothermal sources of energy, Kujda said.

The NFOSiGW is a government institution under the supervision of the Environment Ministry, which disburses both the European Union's and Poland's domestic funds to improve the environment.

India's Solar Prices Set to Drop Amid Competition, Lower Costs

Posted January 11, 2017, 01:54 P.M. ET

By [Anindya Upadhyay](#)

The price paid for solar power in India at auction is set to fall below last year's record lows for the South Asia nation, driven by plummeting panel prices, falling interest rates and competition among developers seeking a slice of the country's renewables market.

Prices could dip lower than the 4.34 rupees (6 cents) a kilowatt-hour offered in auctions held in the state of Rajasthan a year ago, according to at least one developer of solar projects in India.

"This year we will see prices fall below 4 rupees a kilowatt-hour for sure and it will be viable," said Rahul Munjal, chairman and managing director of [Hero Future Energies Pvt](#), the clean-energy arm of Hero Group, one of India's largest automakers.

In 2016, countries from Chile to the United Arab Emirates broke records with deals to generate electricity from sunshine for less than 3 cents a kilowatt-hour, half the average global cost of coal power. With China and Japan joining the competitive-bidding bandwagon, as much as 25 gigawatts of solar capacity could be awarded through auctions this year globally, according to Bloomberg New Energy Finance.

“We feel interest rates will go down and the cost of solar panels will fall, so these will have a great effect on breaching the 4 rupees a unit-mark,” said Hero Future’s Munjal, adding that he’s looking at a 500 basis-point decline in domestic interest rates.

Hero Future Energies, backed by the International Financial Corp., operates 360 megawatts of wind and solar capacity and has another 1.4 gigawatts of projects in the pipeline. The company plans to participate in some of the upcoming auctions.

A decline in costs is one reason developers say prices at auction will drop.

After falling 30 percent last year, the price of ordinary multi-crystalline silicon modules is expected to fall another 20 percent in 2017, according to London-based BNEF. Since 2009, solar prices are down 62 percent, with every part of the supply chain trimming costs.

“We expect these modules to sell for around \$0.32 per watt,” Jenny Chase, BNEF’s chief solar analyst, said in a research note.

Pent-up demand for nearly two gigawatts of solar capacity up for auctions in India in the early part of the year will also drive prices lower, said Rahul Goswami founder of [Greenstone Energy Advisors](#), a boutique investment bank specializing in renewable energy deals in Asia’s third-largest economy.

“There is going to be a huge oversubscription in the coming auctions and everyone in 2017 will be looking at ‘how do I go forward from my one gigawatt to 1.5 or 2 gigawatts,’” Goswami said in a phone interview, adding that fewer tenders in the last several months is adding to the pent-up demand.

Auction Process

Greenstone, which is currently working to find an equity partner for Canadian renewable energy company SkyPower Ltd.’s 350 megawatts of capacity under construction in India, concluded deals for 80 megawatts of solar capacity on behalf of Punj Lloyd Ltd. in 2016. The investment bank also advised billionaire Kumar Mangalam Birla’s Aditya Birla Nuvo Ltd. on a tie-up with Dubai-based private equity investor The Abraaj Group to add solar power capacity in 2015.

India is preparing to award 750 megawatts of solar capacity in the central Indian state of Madhya Pradesh later this month and nearly 1 gigawatt more by March, according to state-run [Solar Energy Corp. of India](#), the government agency that conducts India’s solar auctions.

India adopted auctions in 2010 and is now racing to achieve Prime Minister Narendra Modi’s solar target of 100 gigawatts of capacity by 2022, a goal that’s second only to China.

Of the 25 gigawatts to be awarded through auctions, BNEF’s Chase expects 8.5 gigawatts of that to be in India.

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Environment Votes Unlikely During Budget Vote-a-Rama

Posted January 11, 2017, 01:00 P.M. ET

By [Brian Dabbs](#)

Environmental and energy votes are still unlikely during the pending rapid-fire series of budget resolution votes, dubbed a “vote-a-rama,” scheduled for the night of Jan. 11, environmental advocates told Bloomberg BNA.

The vote series tied to the fiscal year 2017 budget resolution (S. Con Res. 3) is expected to focus strictly on healthcare, the advocates said cautiously. The resolution will tee up the budget reconciliation process designed to repeal portions of the Affordable Care Act.

“Committee staff are also hedging that the currents could shift quickly, and if that’s the case it could happen in the middle of the night without much heads up,” Cameron Witten, a government relations specialist with The Wilderness Society, told Bloomberg BNA. “They’re saying it won’t be a 15 [minute] heads up, but we might only get notice an hour or two before the votes would happen. “

Don Stewart, a spokesman for Senate Majority Leader Mitch McConnell (R-Ky.), echoed that insight. “Budget resolution amendments are typically fairly wide ranging,” Stewart told Bloomberg BNA.

Sen. Jeff Flake (R-Ariz.) proposed an amendment Jan. 9 to delay enforcement of the EPA’s 2015 ozone limits until January 2025. The agency is supposed to update those limits every five years. It remains unclear whether Flake’s amendment will get a vote.

Smog-Choked China Swaps Energy Independence for Cleaner Air

Posted January 11, 2017, 01:00 P.M. ET

By [Jing Yang](#)

China is becoming more dependent on overseas natural gas as it seeks to wean itself off coal and avoid the toxic smog that suffocates the country every winter.

The world’s largest energy user will increase imports of liquefied natural gas about 30 percent this year as domestic production stagnates and the government pushes cleaner fuels in an effort to clear polluted skies, according to S&P Global and North Square Blue Oak Ltd. Imported gas, including both seaborne and pipeline supplies, may account for about 40 percent of the country’s gas use by the end of this decade, up from roughly a third last year, they said.

China’s possible rising reliance on imported natural gas, along with its plans to spend \$360 billion through the end of the decade on renewable energy generation, highlight the challenges facing government of President Xi Jinping as it seeks to throttle back poisonous air that blankets the northern part of the country during winter. Coal accounted for about two-thirds of the country’s primary energy consumption in 2015.

“With domestic production stagnating and demand surging amid the government push to use more gas, China will have to rely more on overseas markets,” Tian Miao, a Beijing-based analyst at North Square Blue Oak, said by phone. “Foreign supplies are also cheaper” because production outside of China is often more efficient.

LNG purchases by the world's third-largest buyer surged to a record in November to meet winter demand and avoid a repeat of last year's shortages, which forced offices in Beijing to cut heating. Total gas imports climbed almost 22 percent in the first 11 months of this year while domestic output gained only 2.2 percent, contributing to the surge in spot prices in northeast Asia that climbed to an almost two-year high in December.

The nation is aiming to raise the share of less-polluting natural gas to 10 percent of its energy mix by 2020 from 6 percent last year, the National Development and Reform Commission, the country's top economic planner, said last month. The portion of gas will rise to 6.8 percent this year and the nation will "aggressively" expand its use, Nur Bekri, chairman of the National Energy Administration, said at the national energy work conference, according to a posting on the administration's website.

Risky Air

"I'm pretty optimistic towards natural gas consumption and imports growth in China next year," said Peter Lee, a Singapore-based analyst at BMI Research. "We expect to see continuous regulatory support from Beijing to drive gas consumption in a bid to arrest severe air pollution that continues to plague its major cities." Heavy smog has forced more than 60 cities, including Beijing, to issue health alerts since the beginning of the year and even canceled or delayed hundreds of flights. Pollution was at medium or higher levels in 186 cities Jan. 3, according to the Ministry of Environmental Protection.

The country's LNG annual imports will increase by between 12 billion and 15 billion cubic meters—the equivalent of 8.9 million to 11.1 million tons -- over the next two to three years, with the start-up of long-term contracts, according to Lee. The country's imports in the first 11 months of the year are up 27.5 percent to 22.3 million tons.

Larger Slice

"I think China will challenge Japan and South Korea" as the world's biggest LNG buyer in the future, said Michal Meidan, an analyst with Energy Aspects Ltd. "These are no longer big LNG growth markets. Rather, their import requirements are shrinking."

China's LNG shipments will make up a larger slice of the import pie as pipeline projects to pump gas from Russia are delayed, Bloomberg New Energy Finance analyst Nannan Kou wrote in a report last week. China's gas market will remain over-supplied through 2030, which could reduce the need to build additional pipelines in the future, according to BNEF.

Domestic natural gas output will likely grow only around 3 percent this year unless shale gas output makes remarkable improvement, said Liu Guangbin, an analyst with Shandong-based SCI International.

City gas use accounts for about 40 percent of the nation's total demand for natural gas, while 30 percent is consumed as an industrial fuel and the rest used in the chemical and power generating sectors, China National Petroleum Corp. said in its annual research report in January 2016.

—With assistance from Dan Murtaugh and Aaron Clark.

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Energy Department Report Highlights Value of National Labs

Posted January 11, 2017, 11:02 A.M. ET

By Rebecca Kern

An Energy Department annual report on the state of the agency's 17 national laboratories released Jan. 11 highlighted the value of the labs' scientific research.

The first section of the first-ever report on the labs notes their contributions, including conducting research that enabled both the shale gas revolution and the development of nuclear energy, as well as securing the nation's stockpile of nuclear weapons. The energy efficiency technologies and standards from the labs have also saved consumers \$1 trillion, it said.

President-elect Donald Trump's transition team has been scrutinizing the labs. Nearly 10 questions from a 74-item questionnaire to the department targeted the work and salaries paid to national lab staff.

The report also provides recommendations to overcome challenges at the labs. Unlike most other federal laboratories, which are government-owned and government-operated, the Energy Department's 17 national labs are government-owned and contractor-operated, which has created trust issues between DOE staff and lab contractor staff in the past. The report recommends actions the agency and labs can take to rebuild trust and improve working relationships.

The report on the state of the labs was the result of a recommendation from a Congress-mandated commission that the Energy Department improve how it communicates the value of the country's labs.

Taiwan Allows Private Companies to Sell Electricity to Grid

Posted January 11, 2017, 9:41 A.M. ET

By Yu-Tzu Chiu

Taiwan for the first time will allow private companies to sell electricity to the power grid, under an amendment to the Electricity Act approved Jan. 11 by the Legislature.

The changes will introduce competition to the country's energy markets, promote renewables, and mark a "crucial step for Taiwan's transition to a nuclear-free homeland by 2025," Minister of Economic Affairs Lee Chih-kung said at a news conference.

The amendment creates a legal basis for a previously announced policy goal to phase out nuclear power by 2025, meaning Taiwan's three operational but aging nuclear power plants, which provide about 14 percent of the country's electricity.

Public Grid

Currently, the electricity sector in Taiwan is regulated by its state-owned electric power utility company, Taiwan Power Co. (Taipower). The grid itself will remain publicly operated under the revisions.

The revised act also guarantees users' right to choose between purchasing green power or conventional power.

Taiwan President Tsai Ing-wen last year called for generating 20 percent of Taiwan's power from renewable energy by 2025, up from only 4 percent today.

The amendment, a top priority of the president, will become law after her signature, expected in the coming weeks.

U.K. Vows to Protect Green Bank's Purpose After Privatization

Posted January 11, 2017, 8:42 A.M. ET

By [Jessica Shankleman](#) and [Alex Morales](#)

The British government dismissed concerns that the sale of its U.K. Green Investment Bank Plc will jeopardize the lender's environmental mission, saying the winning bidder will be required to continue with its mandate to invest in clean-energy projects.

Potential buyers are required to spell out how they will protect the bank's green purpose, and a group of special shareholders will be able to veto any investments deemed too polluting, Climate Change Minister Nick Hurd told lawmakers in London on Wednesday.

"The reason we want to move it into the private sector is to enable the business to grow and to continue as an institution supporting investment in the green economy," Hurd said. "We are selling it as a going concern, and potential investors will be buying into the company's green business plan and forward pipeline of projects."

The government has selected Macquarie Group Ltd. as the preferred bidder, people familiar with the deal said in October. Negotiations are ongoing with the Australian bank, which bid for 100 percent of GIB, according to one person.

Green Party leader Caroline Lucas raised questions about the sale in Parliament Jan. 11, backed by former Labour Party leader Ed Miliband. Changes to the structure of the GIB suggest Macquarie is planning to "hollow out" the institution, and the sale risks the bank being "fatally undermined as an enduring institution," she said.

'Dismal and Terrible'

"This preferred bidder, Macquarie, not only has a dismal and terrible environmental record, it also has an appalling track record of asset stripping," Lucas said. "Isn't this exactly the wrong time to be selling off the Green Investment Bank, given that the government has decided to embark upon a new industrial strategy, which must, to be in accord with our own climate change commitments, have low-carbon projects at its core?"

The government is expected to announce the sale to Macquarie this month, according to a person familiar with the process. Hurd refused to comment on the identity of the bidder, saying discussions are confidential.

The Green Investment Bank, which began operations in 2012, was set up by the government to help stimulate the renewable-energy projects and carbon cuts needed to meet domestic and international climate and renewables targets. Its remit includes the potential sale of assets in order to fund new investments in projects that might not otherwise take place.

Track Record

Environmental groups and lawmakers have expressed concerns that the sale of GIB could cause the bank to lose its environmental mission. An investigation by advocacy groups E3G and Greenpeace published Jan. 10 suggested Macquarie is seeking to sell off the bank's assets, including offshore wind farms and waste-to-energy plants. A spokeswoman for Macquarie declined

to comment, pointing to a [statement](#) published Jan. 7 that highlighted the company's track record of investing in renewable energy.

Parliament's Environmental Audit Committee published a letter from its chairwoman Mary Creagh Jan. 11 that was sent in December to Business Secretary Greg Clark, calling on the government to protect the bank's green purpose.

"Taxpayers do not want to see a repeat of the Royal Mail debacle where public assets were sold at bargain basement prices, and they do not want to see a landmark British institution sold off to an asset stripper," said Creagh, a lawmaker for the opposition Labour Party, in an e-mailed statement.

Gregory Barker, the former climate change minister who helped create the bank and a member of the House of Lords, said on Twitter Jan. 9 he had written to Prime Minister Theresa May urging her to rethink the sale.

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Anglo American Executive Sees Thermal Coal Exit Within 5 Years

Posted January 11, 2017, 8:17 A.M. ET

By [Anna Hirtenstein](#)

Anglo American Plc's head of government relations expects the company will have completed its divestiture from thermal coal by 2022.

"I would be personally surprised if we were still in thermal coal in five years," Anglo American's Richard Morgan said on the sidelines of a meeting at the London Stock Exchange about the low-carbon economy. "We haven't said that we're doing it for climate change purposes but that is where we're trying to go."

Anglo American said last year it would speed up plans to exit coal and iron ore as it became the first major London-based miner to have its credit rated junk. The company subsequently announced it will focus on platinum, diamonds and copper. All of its thermal coal mines are up for sale.

In the wake of the COP21 Paris climate agreement, a wave of investors controlling \$3.4 trillion pledged to divest from the dirtiest fuels to mitigate global warming. The U.K. and France plan to shutter all of their coal plants by the early 2020s.

Morgan said he anticipates "short-term complications" with the sale of mines, particularly assets in Colombia and South Africa.

"Both cases where we'd sell thermal coal mines, it would be with a view for them continuing because they're an important part of the energy mix for the countries where they are," he said. "We're not taking coal out of operation."

Thermal coal is considered to be of strategic importance in South Africa and the Cerrejon mine in Colombia makes up 60 percent of the region's gross domestic product, he said.

—With assistance from Thomas Biesheuvel.

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